



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 9 1998

H.M. Strong
Assistant Secretary
Louisiana Department of Environmental Quality
P.O. Box 82178
Baton Rouge, Louisiana 70884-2178

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Dear Mr. Strong:

I have received your July 29, 1998 letter expressing concern with our decision not to include any wastewater data in the 1997 Biennial Report National Report. I appreciate you taking the time to write to me about this issue. As you know, the reporting of wastewaters in the Biennial Report has been a contentious issue for some time now. It was discussed extensively at the two training sessions for the 1997 Biennial Report cycle, where states raised issues similar to the ones raised in your letter.

Your letter suggests there is no reason that potential duplicate reporting should be of concern in this case. You believe that, without wastewater information in the National Report, there will be an incomplete national data picture that could mislead the public as to the total quantities of waste generated and managed. You also state that the lack of a clear EPA policy on the reporting of wastewaters will increase dissension within the regulated community and further disable states in collecting meaningful data. Your letter ends with a request for EPA to reconsider our decision not to report wastewaters in the National Report.

There was a year-long discussion within the Office of Solid Waste on the issue of reporting wastewaters prior to the release of the 1997 Biennial Report forms and instructions. At that time, we determined that it continues to be important to ask respondents for information on wastewaters.

As you know, in previous National Reports, EPA made a distinction between wastewaters going to RCRA permitted units and wastewaters going to non-RCRA permitted units (sometimes referred to as exempt wastewaters). Wastewaters going to non-RCRA permitted units were not included in waste generation totals presented in previous National Reports.

In 1997, as part of the Agency's burden reduction efforts, the Process System (PS) form was eliminated. This made it very difficult to separate the exempt from the non-exempt wastewaters. In addition, some states are not submitting exempt wastewater data to EPA.

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Thus, we don't have a complete picture of wastewater generation and management. Therefore, for the 1997 National Report we have two alternatives for reporting the wastewater data we did receive:

- 1) Report all wastewaters, both exempt and non-exempt. This would cause concern to some states. Total wastewater volumes would go up substantially, since, historically, only non-exempt wastewaters have been reported in the National Report. In addition, the state total waste generation rankings would change.
- 2) Report no wastewaters. This too, as you noted, would create concerns. The amount of total waste generated as reported in the National Report would decrease dramatically and the state total waste generation rankings also would change in this approach.

I have decided to proceed with the second alternative. The 1997 National Report will clearly identify what data is in the Report and what has changed from previous National Reports. The National Oversight Database, which is accessible to the states, Regions and the public, will still include wastewaters.

As mentioned during the June 1998 training, the Agency is currently in the process of determining the content of the 1999 Biennial Report. At this point, we are not planning to make any changes for the 1999 cycle. We are instead investing our resources in a comprehensive review of the Agency's RCRA data needs and systems under the Waste Information Needs Initiative/Information for making Environmental Decisions (WIN/INFORMED) process. When the results of this review are final, significant changes may be made to the Biennial Report. Until then, we expect states to continue to use the methodologies to report wastewaters that they used for the 1997 cycle.

I understand that this solution is less than perfect. I also understand that the National Report will present a different view of national hazardous waste generation and management than previous National Reports, and that this change will have impacts. However, due to forms changes that resulted from the need to reduce regulatory burden, we are faced with imperfect options.

Again, thank you for your thoughtful letter. If there is any further information you need, or if you have any additional suggestions, please let me know.

Sincerely yours,



Elizabeth A. Cotsworth, Acting Director
Office of Solid Waste



Control to HWMMD

State of Louisiana

Department of Environmental Quality



M.J. "MIKE" FOSTER, JR.
GOVERNOR

J. DALE GIVENS
SECRETARY

July 29, 1998

Elizabeth A. Cotsworth
Acting Director, Office of Solid Waste
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

RE: Reporting of Wastewaters in 1997 BRS Cycle

Dear Ms. Cotsworth:

At the June 16-18 National RCRA Data Systems Conference, Louisiana Department of Environmental Quality (LDEQ) representatives learned of the U.S. EPA's plans for calculating the generation and management of hazardous waste in the United States. These calculations will be the basis for the information presented in the 1997 National Biennial Hazardous Waste Report. These plans were made by the Analysis and Information Branch (AIB) and will be enacted by the Information Management Branch (IMB). The LDEQ is concerned that, in an attempt to achieve a level of similarity between the states, the EPA will present an unrealistic picture of hazardous waste generation and management that will mislead and confuse Congress and the public.

AIB intends to remove from the statistical calculations any inorganic liquid waste, managed on-site or off-site, that it defines as a "wastewater." Material included in these wastewaters are aqueous waste with low solvents, caustic aqueous waste, scrubber water, leachate, and any RCRA hazardous waste managed on-site or off-site by any aqueous treatment method.

The LDEQ disagrees with this approach. State and federal regulations require hazardous waste generators to report all RCRA regulated waste that is shipped off-site. Also, RCRA-permitted, commercial facilities are required to report waste received and the method of treatment. Removing data from the national report simply because it is aqueous or managed using an aqueous treatment method undermines the intent of these regulations. The fact that part of the actual treatment method may or may not eventually be regulated under the Safe Drinking Water Act (SDWA) or the Clean Water Act (CWA) is not a reason to remove this data from the national report.

Based on the 1995 National Biennial Report Summary, 55% of the RCRA hazardous waste received from off-site in the U.S. was managed by these aqueous treatment methods. These wastes would disappear from the 1997 and future national waste reports summaries if the AIB plan is followed. A complete picture of the generation and management of hazardous waste is not possible without all the off-site shipment information.

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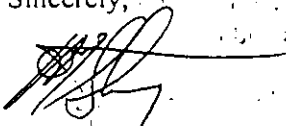
As part of the Biennial Report, facilities are required to include all waste generated (non-wastewater and wastewater). In prior reporting cycles, the PS Form was included in the Biennial Report. It was this form that allowed states and the EPA to distinguish which wastewaters were exempt and which were regulated. In the 1997 reporting year, the EPA eliminated the PS Form from the report and thus disabled the ability to separate exempted from non-exempted wastewaters. At the same time, the EPA kept the requirement that facilities report exempted wastewaters. The LDEQ requested and received a variance to the procedure for the inclusion of the exempted waste. However, it was our understanding that all other waste would be included within the final national report.

Finally, the LDEQ is concerned that the EPA does not have any plans to remedy this problem for future reporting cycles and has said that in the 1999 reporting cycle, authorized states will be allowed to make their own decisions as to whether to report exempted wastewaters or not. This indecisive and non-supportive stance by EPA appears to indicate some pretense in the regulatory requirement for reporting and may increase dissension of the regulated community and further disable states in collection of meaningful data. Moreover, it will ultimately disable states from accurately responding to any future national capacity reporting that is currently mandated by laws. Ultimately, all 50 states will have different reporting requirements, and an accurate comparison among states will no longer be possible. This change would certainly not preserve any consistency in allowing an accurate national report by EPA.

In conclusion, the LDEQ believes that implementation of AIB's plans will not produce a true reflection of national hazardous waste generation and management and will not lead to valid comparisons of generation and management between states. The LDEQ respectfully requests that the U.S. EPA reconsider moving forward with AIB's plans.

If you should have any questions, please contact me at (504) 765-0355.

Sincerely,



H. M. Strong
Assistant Secretary

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